* C	ase 8:11-cv-00859-DOC-AN Document 1	Filed 06/09/11 Page 1 of 11 Page ID #:1					
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1	Todd M. Friedman (216752)	2011 JUN -9 PM 1: 33					
2	Darin Shaw (251037)	CLERK U.S. DISTRICT COURT CENTRAL DIST. OF CALIF. SANTA ANA					
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6	tfriedman@attorneysforconsumers.com						
7	dshaw@attorneysforconsumers.com Attorney for Plaintiff						
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9	UNITED STATES I	NOTE OF COLUMN					
10	FOR THE CENTRAL DIS						
11		Case No.					
13	HOLLAND GILLUM,) Case No. SACV 11-00859 DOC (ANx)) COMPLAINT FOR VIOLATION) OF FEDERAL FAIR DEBT					
14	Dlaintiff)						
15	Plaintiff,)	COLLECTION PRACTICES ACT					
16	VS.) AND ROSENTHAL FAIR DEBT COLLECTION PRACTICES ACT						
17	BLEIER & COX LLP,)						
18	Defendant.	,					
19)						
20							
21	I. INTRODUCTION						
22	1. This is an action for damages brought by an individual consumer for						
23	Defendant's violations of the Fair Debt Collection Practices Act, 15 U.S.C.						
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26	§1692, et seq. (hereinafter "FDCPA"), and the Rosenthal Fair Debt Collection Practices Act, Cal Civ Code §1788, et seq. (hereinafter "RFDCPA"), both of						
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which prohibit debt collectors from engaging in abusive, deceptive, and unfair practices.

II. JURISDICTION

2. Jurisdiction of this Court arises under 15 U.S.C. §1692k (d).

III. PARTIES

- 3. Plaintiff, Holland Gillum ("Plaintiff"), is a natural person residing in Orange county in the state of California, and is a "consumer" as defined by the FDCPA, 15 U.S.C. §1692a(3) and is a "debtor" as defined by Cal Civ Code §1788.2(h).
- 4. At all relevant times herein, Defendant, Bleier & Cox LLP, ("Defendant") was a company engaged, by use of the mails and telephone, in the business of collecting a debt from Plaintiff which qualifies as a "debt," as defined by 15 U.S.C. §1692a(5), and a "consumer debt," as defined by Cal Civ Code §1788.2(f). Defendant regularly attempts to collect debts alleged to be due another, and therefore is a "debt collector" as defined by the FDCPA, 15 U.S.C. §1692a(6), and RFDCPA, Cal Civ Code §1788.2(c).

IV. FACTUAL ALLEGATIONS

5. At various and multiple times prior to the filing of the instant complaint, including within the one year preceding the filing of this complaint, Defendant attempted to collect an alleged outstanding debt from Plaintiff.

- 6. Defendant attempted to collect from Plaintiff a debt allegedly owed by his mother for a Capital One account.
- 7. Defendant garnished funds from Plaintiff's personal bank account in order to collect on a judgment previously obtained against Plaintiff's mother.
- 8. Defendant was granted a judgment against Plaintiff's mother on March 12, 2010, in The Superior Court of California, County of Orange, Case No. 30-2009-0030-1089. A Writ of Execution was issued in that case on October 6, 2010.
- 9. Money was deducted from Plaintiff's account on January 31, 2011, and on March 17, 2011. Plaintiff received a notice from his bank enclosing the Writ of Execution that allegedly enforces a judgment against him. The total order amount is stated as \$3,107.79. The Writ of Execution enclosed is actually a copy of the Writ against Plaintiff's mother. Plaintiff was not aware of the judgment against his mother until he obtained a copy of the Writ and researched the matter further.
- 10. To the best of Plaintiff's knowledge, no Judgments have been filed against him personally by Defendant.
- 11. The bank account garnished by Defendant is Plaintiff's personal bank account, and not a joint account with his mother.

12. Defendant's conduct violated the FDCPA and the RFDCPA in multiple ways, including but not limited to:

- a) Using unfair or unconscionable means against Plaintiff in connection with an attempt to collect a debt, including, but not limited to, withdrawing funds from Plaintiff's account to recover funds from Plaintiff's mother (§1692f));
- b) Collecting an amount from Plaintiff that is not expressly authorized by the agreement creating the debt, including, but not limited to, withdrawing funds from Plaintiff's account to recover funds from Plaintiff's mother (§1692f(1));
- c) Collecting an amount from Plaintiff that is not permitted by law, including, but not limited to, withdrawing funds from Plaintiff's account to recover funds from Plaintiff's mother (§1692f(1));
- d) Engaging in conduct the natural consequence of which is to harass, oppress, or abuse Plaintiff, including, but not limited to, withdrawing funds from Plaintiff's account to recover funds from Plaintiff's mother (§1692d));
- e) Falsely representing or implying that nonpayment of Plaintiff's debt would result in the seizure, garnishment, attachment, or sale of Plaintiff's property or wages, where such action is not lawful or Defendant did not intend to take such action, including, but not limited to, withdrawing funds from Plaintiff's account to recover funds from Plaintiff's mother (§1692e(4));
- f) Threatening to take an action against Plaintiff that cannot be legally taken or that was not actually intended to be taken, including, but not limited to, withdrawing funds from Plaintiff's account to recover funds from Plaintiff's mother (§1692e(5));

- h) Threatening to take an action against Plaintiff that is prohibited by §1788 of the California Civil Code, including, but not limited to, withdrawing funds from Plaintiff's account to recover funds from Plaintiff's mother (Cal Civ Code §1788.10(f)).
- 13. Further, §1788.17 of the RFDCPA mandates that every debt collector collecting or attempting to collect a consumer debt shall comply with the provisions of Sections 1692b to 1692j, inclusive, of, and shall be subject to the remedies in Section 1692k of, Title 15 of the United States Code statutory regulations contained within the FDCPA, 15 U.S.C. §1692d, and §1692d(5).
- 14. As a result of the above violations of the FDCPA and RFDCPA Plaintiff suffered and continues to suffer injury to Plaintiff's feelings, personal humiliation, embarrassment, mental anguish and emotional distress, and Defendant is liable to Plaintiff for Plaintiff's actual damages, statutory damages, and costs and attorney's fees.

Complaint - 5

COUNT I: VIOLATION OF FAIR DEBT COLLECTION PRACTICES ACT

15. Plaintiff reincorporates by reference all of the preceding paragraphs.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that judgment be entered against the Defendant for the following:

- A. Declaratory judgment that Defendant's conduct violated the FDCPA;
- B. Actual damages;
- C. Statutory damages;
- D. Costs and reasonable attorney's fees; and,
- E. For such other and further relief as may be just and proper.

COUNT II: VIOLATION OF ROSENTHAL FAIR DEBT COLLECTION PRACTICES ACT

- 16. Plaintiff reincorporates by reference all of the preceding paragraphs.
- 17. To the extent that Defendant's actions, counted above, violated the RFDCPA, those actions were done knowingly and willfully.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that judgment be entered against the Defendant for the following:

- A. Declaratory judgment that Defendant's conduct violated the RFDCPA;
- B. Actual damages;

Complaint - 6

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- 13.
- C. Statutory damages for willful and negligent violations;
- D. Costs and reasonable attorney's fees,
- E. For such other and further relief as may be just and proper.

PLAINTIFF HEREBY REQUESTS A TRIAL BY JURY

Respectfully submitted this 7th day of June, 2011.

By:

Todd M. Friedman (216752) Law Offices of Todd M. Friedman, P.C. 369 S. Doheny Dr. #415 Beverly Hills, CA 90211

Phone: 877-206-4741 Fax: 866-633-0228

tfriedman@attorneysforconsumers.com

Attorney for Plaintiff

UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge David O. Carter and the assigned discovery Magistrate Judge is Arthur Nakazato.

The case number on all documents filed with the Court should read as follows:

SACV11- 859 DOC (ANx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

ll discovery related motions should be noticed on the calendar of the Magistrate Judge	
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NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

Failure to file at the proper location will result in your documents being returned to you.

Case 8:11-cv-00859-DOC-AN Document	ORIGINAL Page 9 of 11 Page ID #:9
Todd M. Friedman, Esq.	
Law Offices of Todd M. Friedman, P.C.	
369 S. Doheny Dr., #415	
Beverly Hills, CA 90211	***
Phone 8,77-206-4741	
Fax: 866-633-0228	
	DISTRICT COURT CT OF CALIFORNIA
HOLLAND GILLUM,	CASE NUMBER
PLAINTIFF(S)	SACV 11-00859 DOC (ANX)
BLEIER & COX LLP,	
BELLEK & COX BBI,	GYD O YOUG
	SUMMONS
DEFENDANT(S).	
must serve on the plaintiff an answer to the attached ☐ counterclaim ☐ cross-claim or a motion under Rule or motion must be served on the plaintiff's attorney. T	12 of the Federal Rules of Civil Procedure. The answer odd M. Friedman , whose address is , #415, Beverly Hills, CA 90211 . If you fail to do so,
	Clerk, U.S. District Court
	Clork, C.S. Blanter Court
JUN -9 2011	By: Morma :
Dated:	Deputy Clerk
	(Seal of the Court)
	(Seat of the Court)
[Use 60 days if the defendant is the United States or a United State 60 days by Rule 12(a)(3)].	tes agency, or is an officer or employee of the United States. Allowed
CV-01A (12/07) SUN	MMONS

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA CIVIL COVER SHEET

I (a) PLAINTIFFS (Check box if you are representing yourself []) HOLLAND GILLUM			DEFENDANTS BLEIER & COX LLP				
yourself, provide same.)	ess and Telephone Number, If you are v Offices of Todd M, Friedman, P.C. everly Hills, CA 90211	representing	Attomeys (If Known)				
II. BASIS OF JURISDICTION ((Place an X in one box only.)		SHIP OF PRINCIPAL PA X in one box for plaintiff ar			Only	
□ 1 U.S. Government Plaintiff	✓ 3 Federal Question (U.S. Government Not a Party)	Citizen of This		TF DEF	Incorporated or P of Business in thi	rincipal Place 🛘 🗆	rf def 4 □4
☐ 2 U.S. Government Defendant	☐ 4 Diversity (Indicate Citizenship of Parties in Item III)	Citizen of And]2 □2	of Business in An		
		Citizen or Sub	ject of a Foreign Country []3 []3	Foreign Nation		6 🗆 6
IV. ORIGIN (Place an X in one b	box only.)						
Magistrate Judge Note that the total variable to the count of the cou							
V. REQUESTED IN COMPLAI	INT: JURY DEMAND: DY Yes	No (Check 'Y	es' only if demanded in com	plaint.)			
CLASS ACTION under F.R.C.P.	,		MONEY DEMANDED I		INT: S		
VI. CAUSE OF ACTION (Cite I	he U.S. Civil Statute under which you	are filing and w	rite a brief statement of caus	se. Do not c	ite jurisdictional sta	tutes unless diversi	y.)
	e Fair Debt Collection Practices Act						
VII. NATURE OF SUIT (Place:	an X in one box only.)		· · · · · · · · · · · · · · · · · · ·				
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□ 895 Freedom of Info, Act □	220 Foreclosure	MMIGRATION Naturalization		th □ 660	Occupational Safety /Health	FEDERAL TAX	
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Page 1 of 2

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA CIVIL COVER SHEET

VIII(a). IDENTICAL CASES: Has If yes, list case number(s):	s this action been p	reviously filed in this court ar	nd dismissed, remanded or closed? 🗹 No 🗆 Yes		
VIII(b). RELATED CASES: Have If yes, list case number(s):	any cases been pro	eviously filed in this court tha	at are related to the present case? 🗹 No 🗆 Yes		
□ B. : □ C. :	Arise from the sam Call for determinati For other reasons w	e or closely related transactio ion of the same or substantial rould entail substantial duplic	ons, happenings, or events; or ly related or similar questions of law and fact; or ation of labor if heard by different judges; or , <u>and</u> one of the factors identified above in a, b or c also is present.		
IX. VENUE: (When completing the	following informat	ion, use an additional sheet if	f necessary.)		
			f other than California; or Foreign Country, in which EACH named plaintiff resides. this box is checked, go to item (b).		
County in this District:*			California County outside of this District; State, if other than California; or Foreign Country		
Orange					
			fother than California; or Foreign Country, in which EACH named defendant resides. If this box is checked, go to item (c).		
County in this District:*			California County outside of this District; State, if other than California; or Foreign Country		
Los Angeles					
(c) List the County in this District; (c) Note: In land condemnation cs			f other than California; or Foreign Country, in which EACH claim arose.		
County in this District;*			California County outside of this District; State, if other than California; or Foreign Country		
Orange					
* Los Angeles, Orange, San Bernar Note: In land condemnation cases, us	dino, Riverside, V	entura, Santa Barbara, or S e tract of land involved	San Luis Obispo Counties		
X. SIGNATURE OF ATTORNEY (OR PRO PER);		Date June 7, 2011		
or other papers as required by lay	v. This form, appro-	ved by the Judicial Conference	enation contained herein neither replace nor supplement the filing and service of pleadings e of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed ling the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)		
Key to Statistical codes relating to So	cial Security Cases	:			
Nature of Suit Code	Abbreviation	Substantive Statement of	f Cause of Action		
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program, (42 U.S.C. 1935FF(b))			
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)			
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))			
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))			
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.			
865	865 RSI All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))				

CIVIL COVER SHEET

CV-71 (05/08)

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